

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Kenneth Marshall, :
 :
Plaintiff, : Case No. 2:14-cv-338
 :
v. :
 :
Ohio Department of Rehabilitation: JUDGE GREGORY L. FROST
& Corrections, et al., : Magistrate Judge Kemp
 :
Defendants. :

ORDER

As the Court's order of October 17, 2014, recites, Kenneth Marshall, a state prisoner, filed this case on April 11, 2014, by submitting a complaint and motion for leave to proceed *in forma pauperis*. The United States Marshal was directed to serve the complaint, but the Plaintiff, Mr. Marshall, did not submit either completed summonses or a Marshal's Service Form (Form USM-285) for the defendants, documents needed in order for the Marshal to make service. The Clerk advised him of this deficiency and also sent him additional Form USM-285s to complete.

On July 24, 2014, Mr. Marshall submitted a summons and USM-285 for four persons: Gary Mohr, Individually and as Director of the Ohio Department of Rehabilitation and Correction; Dr. Eddy, the ODRC medical director; Deborah Stewart; and the Collegial Review Committee. It is not clear if Ms. Stewart is a named defendant and the Collegial Review Committee is not a party to this case. None of the forms were accompanied by service copies of the complaint or copies of the two supplemental complaints which Mr. Marshall filed.

In the October order, the Court advised Mr. Marshall that all plaintiffs, including individuals who have been allowed to proceed *in forma pauperis*, must make copies of the pleadings for

service on the defendants and supply them to the Court. It also drew his attention to Fed.R.Civ.P. 4(m) and gave him 21 days to submit the materials necessary in order for service of process to take place. This order deals with a number of motions filed since that date, and one which preceded it.

I. Motion to Strike (Doc. 16)

Four days before that order issued, Mr. Marshall filed a motion to strike, which refers to notices of appeal sent to other courts and also to documents which, he asserts, were filed by the defendants but not served on him. The Court's docket does not reflect any such filings, so the motion to strike will be dismissed as moot.

II. Motions for Relief from Judgment (Docs. 18 and 20)

On October 23, 2014, Mr. Marshall filed a motion for relief from judgment, directed to the October 14, 2014 order. In it, he reargues his position that this case cannot be dismissed simply because he is unable to afford service copies. The Court has previously rejected his arguments, but he makes one additional claim: that he cannot make copies of the supplemental pleadings because he submitted the originals to the Court and did not keep copies. The Court will grant this motion to the extent that the Clerk will be directed to send Mr. Marshall a copy of those documents (Doc. 8).

Doc. 20, filed on November 14, 2014, is a duplicate of Doc. 18 and will be disposed of in the same fashion.

III. Motion for Injunctive Relief and
Motion to Supplement (Docs 21 & 22)

In the first motion, filed on December 22, 2014, Mr. Marshall makes claims about being deprived of his medication. Since the defendants have not been served, and it is not clear whether they or, as the motion states, "others" are allegedly responsible for that action, the Court cannot grant him an

injunction, but he also asked for the Court to send him documents needed for service, which the Court assumes are his supplemental pleadings. This motion will be granted to the same extent as Doc. 18. The motion to supplement will be granted and made part of the record.

IV. Order

Although Mr. Marshall has not complied with the Court's prior orders concerning service, it appears that he may now be able to do so. The Court will therefore give him additional time to make service. His motions for relief from judgment (Doc. 18 and 20), motion for injunctive relief (Doc. 21), and motion to supplement (Doc. 22) are granted to this extent. The Clerk shall promptly mail to Mr. Marshall a copy of the supplemental pleadings filed as Doc. 8. The Clerk shall also advise Mr. Marshall, with specificity, what documents, in addition to ones he has previously submitted, are needed in order for the Marshal to make proper service on each named defendant. The mailing of this information to Mr. Marshall shall be noted on the docket. Within 28 days of this order, Mr. Marshall shall submit the documents needed to make up a completed service packet for each defendant. As soon as the Court receives such a packet for each defendant, it will forward the documents to the United States Marshal for service. If this order is not complied with, the case will be dismissed without prejudice.

The motion to strike (Doc. 16) is denied as moot.

V. Motion for Reconsideration

Any party may, within fourteen days after this Order is filed, file and serve on the opposing party a motion for reconsideration by a District Judge. 28 U.S.C. §636(b)(1)(A), Rule 72(a), Fed. R. Civ. P.; Eastern Division Order No. 14-01, pt. IV(C)(3)(a). The motion must specifically designate the order or part in question and the basis for any objection.

Responses to objections are due fourteen days after objections are filed and replies by the objecting party are due seven days thereafter. The District Judge, upon consideration of the motion, shall set aside any part of this Order found to be clearly erroneous or contrary to law.

This order is in full force and effect even if a motion for reconsideration has been filed unless it is stayed by either the Magistrate Judge or District Judge. S.D. Ohio L.R. 72.3.

/s/ Terence P. Kemp
United States Magistrate Judge